



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
**Ground Water Protection**  
10<sup>th</sup> Floor, 401 Church Street  
Nashville, Tennessee 37243-1540

November 17, 2005

To All Architects and Engineers Licensed in Tennessee

Re: Public Chapter No. 495

This is to notify you an amendment, effective January 1, 2006, to the Subsurface Sewage Disposal Systems Law, Tennessee Code Annotated (TCA) 68-221 and how it affects you being allowed to conduct percolation tests as stipulated by TCA 68-221-403(c)(2). TCA 68-221-409 was amended (copy enclosed) to require those persons who may perform a percolation test to file with the Commissioner a performance bond or an irrevocable letter of credit in the amount of thirty thousand dollars (\$30,000) for the benefit of any person who hires the percolation tester and is damaged because of any negligence or fraud by the percolation tester. The amendment further states that licensed professionals shall be exempt from the performance bond or credit letter requirement if they possess valid errors and omissions insurance in the amount of thirty thousand dollars (\$30,000).

This is to notify you that if you intend to conduct percolation tests after January 1, 2006, you must file the performance bond, irrevocable letter of credit or proof of valid errors and omissions insurance to the Division of Ground Water Protection Central Office where it will be reviewed. Examples of "letters of credit", "performance bonds" and proof of errors and omissions insurance" may be accessed in the near future at [www.state.tn.us/environment/gwp](http://www.state.tn.us/environment/gwp). If such is determined to be acceptable, you will be placed on a list of "Approved Percolation Testers" maintained on the Division of Ground Water Protection's website. The list will be updated and copies provided to staff on a continual basis. Division Staff will not accept percolation tests conducted by individuals who do not meet the requirements stipulated by this statute.

You will note section 2 of the law exempts certain counties based on the 2000 Federal Census. A State Attorney General's Opinion, No. 05-145 (September 27, 2005) has been law on a statewide basis rendered declaring this section unconstitutional. The opinion further declares that because section 2 is unconstitutional, the law applies statewide. Therefore, the Division will enforce the law on a statewide basis.

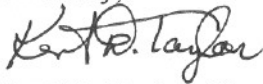
Please be advised of this new statutory amendment. The performance bond, irrevocable letter of credit or the errors and omission insurance shall be submitted to:

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Randall Masters  
Division of Ground Water Protection  
L&C Tower, 10<sup>th</sup> Floor  
401 Church Street  
Nashville, TN 37243

Should you have any questions feel free to call on Mr. Masters or Mr. Dan Hoover at  
(615) 532-0761.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kent D. Taylor".

Kent D. Taylor, Director  
Division of Ground Water Protection

KDT/deh

enclosure